

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Private Aided Colleges – Suits – High Court of Andhra Pradesh Judgment dated 16.2.2009 in W.A.No.1547/2008 and W.A.No.1633 of 2008 against the order dt.31.10.2008 in W.P.No.9490 of 2008 between Oriental Urdu College, Himayathnagar, Hyderabad and Sri Syed Baba Moinuddin Quadri, S/o.Syed Kareemuddin Quadri, Kachiguda, Hyderabad and Government – Implementation – Orders - Issued.

HIGHER EDUCATION (CE-II) DEPARTMENT

G.O.Rt.No. 108

Dated:23-02-2010.
Read the following:-

- 1.Procs. of the Commissioner of Collegiate Education, AP, Hyderabad in Rc.No.583/Admn.IV-1/2006, dt.19.9.2007.
- 2.G.O.Rt.No.208 HE (CE.II)Deptt., dated 3.3.2008.
- 3.Govt.Memo No.13416/CE.II.2/2007-1, dt.31.5.2008.
- 4.From the High Court, A.P, Hyd.,Notice dated 29.4.2008 in WPMP No.12527 of 2008 in W.P. No.9490/2008.
- 5.From the Commissioner of Collegiate Education, AP, Hyderabad, Lr.Rc.No.583/Admn.IV-1/2006, dt.3.6.2008. and 3.7.2008.
- 6.From the High Court, A.P, Hyd.,Contempt Case dated 21.7.2008 in WPMP No.12526 of 2008 in W.P. No.9490/2008.
- 7.From the High Court, A.P, Hyd.,Common Judgemnt dated 16.2.2009 in WA No.1547 of 2008 and WA No.1633 of 2008
- 8.From the Correspondent, Oriental Urdu College, Himayatnagar, Hyderabad letter dated 7.5.2009 addressed to CCE and copied to Government.
- 9.Govt.Memo No.13416/CE.II.2/2007-1, dt.20.5.2009.
- 10.From the Commissioner of Collegiate Education, AP, Hyderabad, Lr.Rc.No.583/Admn.IV-1/2006, dt.28.7.2009.

The Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad in his Procs.vide reference 1st read above, issued orders terminating the services of Dr. A.M.S. Fazlullah, Lecturer in Urdu, Oriental Urdu College (Evening), Himayathnagar, Hyderabad, on the ground that he was not selected by the selection committee of the said college.

2. Aggrieved by the above orders, the Correspondent, Oriental Urdu College, Himayatnagar, Hyderabad has filed an appeal dated 18.10.2007. Sri Syed Baba Moinuddin Quadri has filed an appeal dated 31.10.2007 as a third party. In the mean while Dr. A.M.S. Fazlullah, Lecturer in Urdu, has filed W.P.No.22568 of 2007 in the Hon'ble High Court, seeking directions to the respondents to forbear from enforcing the impugned proceeding of Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad in Rc.No.583/Admn.IV-1/2006, dated 19.9.2007 by setting aside the same holding it to be illegal with a consequential direction that the petitioner should be continued as lecturer in Urdu in the third respondent college with all consequential benefits as if the impugned proceedings was never issued.

3. In the Government Order second read above, the Government after careful examination of the matter and keeping in view the material record, set aside the impugned orders of the Commissioner of Collegiate Education, AP, Hyderabad vide Rc.No.583/Admn.IV-1/2006, dt.19.9.2007 and accordingly, the appeal petition of Dr. A.M.S. Fazlullah, Lecturer in Urdu, Oriental Urdu College (Evening), Himayathnagar, Hyderabad is allowed and directed that of Dr. A.M.S. Fazlullah, be continued as Lecturer in Urdu by the College Management of the Oriental Urdu College (Evening) Degree, P.G. & Research Centre, Himayathnagar, Hyderabad.

4. Aggrieved by the above orders, Sri S.B.M.Quadri has filed WP No.9490 of 2008 in the Hon'ble High Court of Andhra Pradesh, Hyderabad and prayed for suspension of the G.O.Rt.No.208 dt.3.3.2008 pending W.P.No.9490 of 2008 on the file of the High Court. The Hon'ble High Court in their interim order dt.29.4.2008 in WPMP No.12526/2008 in WP No.9490 of 2008 has ordered for suspension of the said G.O., as prayed for. The petitioner has filed C.C.No.792 of 2008 for disobeying the orders of the High Court dt.29.4.2008. The Hon'ble High Court in their orders dt.10.9.2008 in CC No.792 of 2008 have directed the Correspondent not to continue Sri A.M.S.Fazlullah in service from to-day onwards, and closed the contempt case.

(P.T.O.)

5. Aggrieved by the above orders, the management of the college and Dr A.M.S.Fazlullah have filed stay vacate petition No.1851 of 2008 and the High Court in their orders dt.31.10.2008 have observed that the interim suspension granted earlier is made absolute and accordingly the WVMPs have been dismissed. They have also filed Writ Appeals No.1547 of 2008 and 1633 of 2008 for stay on the interim orders dt.29.4.2008 and 31.10.2008.

6. The Hon'ble High Court in its common judgement dt.16.12.2009 in WA No.1547 of 2008 and WA No.1633 of 2008 against the order dt.31.10.2008 in W.P.No.9490 of 2008, while disposing Writ Appeals among other things held that –

"After hearing both sides and on perusing the voluminous record, it appears that the learned single judge in the facts and circumstances of the case, particularly in the light of the letter issued by the Vice Chancellor of Osmania University, dated 21-04-2006, continued the interim suspension granted earlier during the pendency of writ petition and made the interim suspension of the said G.O. Rt. No. 208 in WPMP.No.12526 of 2008 in WP.No. 9490 of 2008 as absolute while dismissing the WVMP Nos. 2965 and 1851 of 2008 through an order dated 31-10-2008 and the learned judge had directed to post the write petition for final hearing. The main contention of the learned counsel for the respondent No.1 is that the fifth respondent is continuing as lecturer without being selected by the selection committee by their minutes dt.15.5.2003 on the strength of false certificates and only because of the order in the instant writ appeal and that the respondent No.5 was never a Lecturer before the order of this court in instant writ appeal. The same is evident on a reading of the order of this court dated 17-09-2003 passed in CC. No. 792 of 2008. The learned counsel for the first respondent argued that the impugned order in the writ petitioner suffers from several legal infirmities and that apart the fifth respondent has been continuing as Lecturer in Urdu against the undertaking given by the appellant – management, in the above contempt case and it amounts to contempt against contempt. The learned counsel for the first respondent submitted that the learned single Judge had directed to consider the representations of the first respondent – writ petitioner dated 11-10-2007 and 04-12-2007 respectively which were submitted to the fourth respondent and the appellant – college for continuation of the services of the first respondent by an order dated 07-11-2008 passed in WPMP. No. 12525 of 2008 in W.P.No. 9489 of 2008.

In the facts and circumstances of the case and after examining the voluminous record and also keeping in view the chequered events and legal battle between the parties, to avoid hardship to the institution as well as in the academic interest of the students in particular and also in order to balance the interest of both the parties, we deem it appropriate to restore the continuation of the first respondent as Lecturer in Urdu in the appellant – college to his original post, as the voluminous record in our view does not reveal any adverse remarks or any allegation against the first respondent, who was terminated without any justification, when there were posts lying vacant in the appellant-college at that point of time. The fourth respondent Commissioner and the appellant- Management of the College are directed to pass orders for continuation of the first respondent forthwith. Without adverting to merits or otherwise of the contentions in this regard made on behalf of the fifth respondent, when four posts are lying vacant in the appellant college to avoid hardship to the institution as well as in academic interest of the students in particular and also in order to balance the interest of both the parties, we deem it appropriate to modify the interim suspension orders dated 31-10-2008 passed by the learned single judge in WPMP. No. 1851 and 2965 of 2008 in WP.No. 9490 of 2008 to that of status-quo in respect of the fifth respondent in WA.No. 1547 of 2008 and appellant in WA.No. 1633 of 2008 and the fourth respondent as well as the appellant – management of the college are directed to continue the fifth respondent as Lecturer in Urdu in the vacant post, pending adjudication of WP.No. 9490 of 2008 by confirming the order of the learned single judge with reference to the posting of the said writ petition for final hearing.

7. The the Commissioner of Collegiate Education, AP, Hyderabad vide his letter 10th read above has stated that as reported by the management there are four posts of Urdu Lecturers lying vacant since 2002 and the management is ready to continue Sri Baba Moinuddin Quadri as Lecturer in Urdu by restoring him to his original post and also Dr A.M.S.Fazlullah as Lecurer in the vacant post subject to approval and requested the Government to issue necessary orders according permission to the Correspondent to restore the continuation of Sri Syed Baba Moinuddin Quadri as Lecturer in Urdu in the college to his original post and to continue Dr A.M.S.Fazlullah as Lecturer in Urdu in the vacant post pending adjudication of WP No.9490 of 2008.

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8. In the circumstances reported by the the Commissioner of Collegiate Education, AP, Hyderabad in his letter 10th read above, and keeping in view of the Judgement of Hon'ble High Court, Andhra Pradesh, Hyderabad vide reference seventh read above, the Government after careful further examination of the matter, hereby accord permission to the Correspondent, Oriental Urdu College, Himayathnagar, Hyderabad to restore the continuation of Sri Syed Baba Moinuddin Quadri as Lecturer in Urdu in the college to his original post as well as to continue Dr A.M.S.Fazlullah as Lecturer in Urdu in the existing vacant posts pending adjudication of WP No.9490 of 2008, in Hon'ble High Court, Andhra Pradesh, Hyderabad.

9. This the Commissioner of Collegiate Education, AP, Hyderabad shall take further necessary action accordingly.

10. This order issues with the concurrence of Fininance (Exp.HE) Department U.O.No.24525(Exp.HE)2009, dated 19.09.2009.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

C.R.BISWAL,
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.

The Correspondent, Oriental Urdu College (Evening),Himayathnagar, Hyderabad,

Thro. the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.

Sri Syed Baba Moinuddin Quadri,H.No.2-4-692/1/3,Haraj Penta,Kachiguda,Hyderabad-27.

Thro. the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.

Dr. AMS Fazlullah, Lecturer, Oriental Urdu College (Evening),Himayathnagar, Hyderabad,

Thro. the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.

Copy to:

The Government Pleader for Higher Education, High Court ,A.P., Hyderabad.

Finance (Exp.HE)Department.

P.S. to M(HE) / P.S. to Prl.Secy.(HE).

SF/SCs.

//Forwarded:: BY Order //

SECTION OFFICER.